

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

LOUIS THOMAS

PLAINTIFF

VS.

CIVIL ACTION NO. 3:09cv465-TSL-FKB

MAJOR MARY RUSHING, ET AL.

DEFENDANTS

**REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

This cause comes on this date on the *sua sponte* motion of the Court to dismiss this cause of action because of plaintiff's failure to prosecute his claims. Natural Gas Pipeline Co. v. Energy Gathering, Inc., 2 F.3d 1397, 1407 (5th Cir. 1993). Plaintiff has failed to appear at the Omnibus hearing scheduled in this matter for July 28, 2010. According to the docket of the case, the Plaintiff was released from the custody of the Hinds County Sheriff, Raymond Detention Center, on December 1, 2009. Prior to his release, this Court warned Plaintiff in five separate Orders that he should keep the Court informed of his current address. See Orders at Docket Nos. 3, 4, 8, 9, and 11. In spite of these warnings, the Plaintiff has failed to update his address with the Court's records. By failing to keep the Court informed of his current address, and by failing to appear at the Omnibus hearing scheduled in this case, the Plaintiff has failed to prosecute this case. For these reasons, the undersigned recommends that Plaintiff's claims be dismissed without prejudice for failure to prosecute. Fed. R. Civ. P. 41(b). Furthermore, the undersigned recommends that the Defendants' Motion to Dismiss (Docket No. 16), to which the Plaintiff has failed to respond, be denied as moot.

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds

of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636, Douglass v. United Services Automobile Association, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

RESPECTFULLY SUBMITTED, this the 28th day of July, 2010.

/s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE